

CASE

NUMBER:

99-371

PRD-410
4-83

CASE

NUMBER:

99-371

V- E- 308; Box 48

HISTORY INDEX FOR CASE: 1999-3
SUNNYSIDE PRESERVATION LIMITED PARTNERSHIP, DBA ENGLISH MANOR
Investigation - Service
COMPREHENSIVE INSPECTION

AS OF : 03/06/00

IN THE MATTER OF SADDLEBROOK APARTMENTS ALLEGED VIOLATIONS
OF ADMINISTRATIVE REGULATION 807 KAR 5:022

SEQ NBR	ENTRY DATE	REMARKS
0001	09/17/1999	Order scheduling 11/5 hearing; info due 10/7
M0001	10/06/1999	DALE AHEARN SADDLEBROOK APARTMENTS-MOTIN FOR EXTENSION OF TIME & FOR INFORMAL CONFERENCE
0002	10/13/1999	Order cancelling 11/5 hearing; schedules 11/3 IC; info due 10/14
M0003	10/14/1999	NEW PLAN EXCEL REALTY-MOTION FOR RESCHEDULING OF INFORMAL CONFERENCE
M0004	10/14/1999	DALE AHEARN SADDLEBROOK APARTMENTS-RESPONSE TO PSC ORDER OF SEPT 17,99
M0002	10/15/1999	KAY RANDALL ATTORNEY-REQUEST FOR INFORMAL CONFERENCE TO BE SET FOR NOV.8,99 (FAX)
M0005	10/19/1999	KATHERINE RANDALL/ATTORNEY-CONFIRMATION OF MOTION RESCHEDULING INFORMAL CONFERENCE TO 11/8/
0003	10/21/1999	Order rescheduling 11/3 informal conference to 11/8/99
0004	11/19/1999	Informal Conference Memorandum
0005	01/11/2000	FINAL ORDER; APPROVES SETTLEMENT AGREEMENT; ASSESSES PENALTY OF \$1,000
M0006	01/11/2000	SADDLEBROOK APARTMENTS-SETTLEMENT AGREEMENT
0006	01/25/2000	FULL PAYMENT RECEIPT FOR \$1,000.00 PENALTY ASSESSED

RECEIVED

DEC 20 1999

GENERAL COUNSEL

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SADDLEBROOK APARTMENTS)
ALLEGED VIOLATIONS OF)
ADMINISTRATIVE REGULATION 807 KAR 5:022)

CASE NO.
99-371

RECEIVED
JAN 11 2000
PUBLIC SERVICE
COMMISSION

SETTLEMENT AGREEMENT

WHEREAS, on November 8, 1999 an informal conference was held between Commission Staff and representatives of Saddlebrook Apartments ("Saddlebrook") for the purpose of discussing matters to aid in the disposition of this proceeding;

WHEREAS, Saddlebrook does not contest the first and second violations as contained in the Commission's Order of September 17, 1999 and,

WHEREAS, Saddlebrook has produced records of the required gas system patrols which were not on-site during the inspection which indicate the required patrols were performed during 1998 showing Saddlebrook was not in violation of 49 CFR 192.721 and 807 KAR 5:022, Section 14(12) and,

WHEREAS, Saddlebrook and Commission Staff each have a different interpretation of the requirements under 807 KAR 5:022, Section 14(b) 1 and 807 KAR 5:027, Section 3(2) and based upon the advice given Saddlebrook by D. Gilbert Corrosion Services, by letter dated July 17, 1997, that a leak survey was not needed until 1999, there is no violation of 807 KAR 5:022, Section 14(13)(b)1.

Therefore, based upon negotiations with Commission Staff it is agreed that:

1. There are no further facts to be submitted to the Commission and that Saddlebrook has waived its right to a public hearing.

2. Saddlebrook agrees to the imposition of a civil penalty of \$1,000 for the violation of:

a. 49 CFR 192.465 and 807 KAR 5:022, Section 10(9)(a) no required corrosion inspection and;

b. 49 CFR 192.747 and 807 KAR 5:022, Section 14(25) no required annual valve inspection.

3. Saddlebrook is to pay \$1,000 within 10 days after the approval of this settlement by the Commission by certified check payable to the Kentucky State Treasurer and mailed or delivered to the Office of the General Counsel,, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky.

4. This settlement agreement is subject to the approval of the Public Service Commission.

5. If the PSC fails to adopt this agreement in its entirety, Saddlebrook reserves the right to withdraw from it and to proceed to a hearing. In such event, none of the matters contained in this settlement shall be binding on any of the parties.

6. If the settlement is adopted in its entirety by the PSC, this settlement shall constitute a final adjudication of the show cause proceeding without the need for any additional hearing.

7. If the settlement agreement is accepted by the PSC, the parties agree not to request rehearing or to file an appeal of the order to the Franklin Circuit Court.

Saddlebrook Apartments

By: James R. Gog
Attorney for
New Plan Residential Trust, Inc.,
d/b/a Saddlebrook
apartments

12/15/99
Date

James R. Gog
PSC, Staff Attorney

12-15-99
Date

HISTORY INDEX FOR CASE: 1999-371 AS OF : 02/11/00

SUNNYSIDE PRESERVATION LIMITED PARTNERSHIP, DBA ENGLISH MANOR

Investigation - Service
COMPREHENSIVE INSPECTIONIN THE MATTER OF SADDLEBROOK APARTMENTS ALLEGED VIOLATIONS
OF ADMINISTRATIVE REGULATION 807 KAR 5:022

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0006	01/25/2000	FULL PAYMENT RECEIPT FOR \$1,000.00 PENALTY ASSESSED

Box 1999-371

V-E-308

Box 47

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JAN 25 2000

PUBLIC SERVICE
COMMISSION

In the Matter of:

SADDLEBROOK APARTMENTS ALLEGED) CASE NO.
VIOLATIONS OF ADMINISTRATIVE) 99-371
REGULATION 807 KAR 5:022)

RECEIPT OF PAYMENT

This is to acknowledge receipt of one check in the amount of \$1,000.00, payable to Kentucky State Treasurer on December 21, 1999 from Saddlebrook Apartments. This represents full payment of the penalty assessed against them in the above-styled action.

Stephanie Bell

Stephanie Bell
Secretary of the Commission
Dated January 25, 2000

IN THE MATTER OF SADDLEBROOK APARTMENTS ALLEGED VIOLATIONS
OF ADMINISTRATIVE REGULATION 807 KAR 5:022

SEQ NBR	ENTRY DATE	REMARKS
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M0006	01/11/2000	SADDLEBROOK APARTMENTS-SETTLEMENT AGREEMENT



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

CERTIFICATE OF SERVICE

RE: Case No. 1999-371
SADDLEBROOK APARTMENTS

I, Stephanie Bell, Secretary of the Public Service Commission, hereby certify that the enclosed attested copy of the Commission's Order in the above case was served upon the following by U.S. Mail on January 11, 2000.

Parties of Record:

Ezra E. Newby,
Maintenance Superintendent
Saddlebrook Apartments
215 Codell Drive
Lexington, KY. 40509

Honorable Dale D. Ahearn
Counsel for Saddlebrook Apartments
Brown, Todd & Heyburn PLLC
400 West Market Street
32nd Floor
Louisville, KY. 40202 3363

Honorable James Park,
Katherine Randall
Counsel for Saddlebrook Apartments
Brown, Todd & Heyburn PLLC
2700 Lexington Financial Center
250 West Main Street
Lexington, KY. 40507 1749

Stephanie J. Bell

Secretary of the Commission

SB/sa
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SADDLEBROOK APARTMENTS)
)
 _____) CASE NO. 99-371
)
 ALLEGED VIOLATIONS OF)
 ADMINISTRATIVE REGULATION 807 KAR 5:022)

ORDER

Saddlebrook Apartments ("Saddlebrook") is a master meter system operator that receives natural gas from the Columbia Gas of Kentucky system. Saddlebrook then redistributes its gas to 455 apartments through a network of steel and plastic pipelines.

Saddlebrook, as a master meter operator, is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.495. Saddlebrook is also subject to Commission jurisdiction under the authority of and in compliance with federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations of 49 CFR 189-199 and KRS 278.992(1). Pursuant to these statutes and 49 CFR 189-199, the Commission promulgated Administrative Regulation 807 KAR 5:022.

On August 5, 1999, Commission Staff submitted to the Commission a Comprehensive Inspection Report alleging that Saddlebrook was in violation of Commission regulations. On September 17, 1999, the Commission issued an Order requiring Saddlebrook to show cause why it should not be penalized for the alleged violations. Pursuant to that Order, Saddlebrook filed a response and requested an informal conference with Commission Staff.

On November 8, 1999, an informal conference was held in which Saddlebrook and Commission Staff entered into a Settlement Agreement wherein Saddlebrook waived a formal hearing and agreed that it was in violation of the following regulations:

1. In 1998, Saddlebrook did not perform the required corrosion inspection. 49 CFR 192.465 and 807 KAR 5:022, Section 10(9)(a).
2. The required annual valve inspection was not conducted in 1998. 49 CFR 192.747 and 807 KAR 5:022, Section 14(25).

The Settlement Agreement further provided for the assessment of a civil penalty of \$1,000 for the above violations.

The Commission finds that the Settlement Agreement, dated December 15, 1999, is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:

1. The Settlement Agreement, appended hereto, is hereby incorporated into this Order as if fully set forth herein.
2. Saddlebrook is assessed a civil penalty of \$1,000 for violations, pursuant to KRS 278.992(1).
3. Within 10 days of the date of this Order, Saddlebrook shall pay to the Commonwealth of Kentucky the sum of \$1,000. This payment shall be in the form of a cashier's check made payable to Kentucky State Treasurer and shall be mailed or delivered to the Office of the General Counsel, Public Service Commission, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602.

Done at Frankfort, Kentucky, this 11th day of January, 2000.

By the Commission

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE
KENTUCKY PUBLIC SERVICE COMMISSION

IN CASE NO. 99-371

DATED JANUARY 11, 2000

RECEIVED

FEB 20 1999

GENERAL COUNSEL

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SADDLEBROOK APARTMENTS)	CASE NO.
ALLEGED VIOLATIONS OF)	99-371
ADMINISTRATIVE REGULATION 807 KAR 5:022)	

SETTLEMENT AGREEMENT

WHEREAS, on November 8, 1999 an informal conference was held between Commission Staff and representatives of Saddlebrook Apartments ("Saddlebrook") for the purpose of discussing matters to aid in the disposition of this proceeding;

WHEREAS, Saddlebrook does not contest the first and second violations as contained in the Commission's Order of September 17, 1999 and,

WHEREAS, Saddlebrook has produced records of the required gas system patrols which were not on-site during the inspection which indicate the required patrols were performed during 1998 showing Saddlebrook was not in violation of 49 CFR 192.721 and 807 KAR 5:022, Section 14(12) and,

WHEREAS, Saddlebrook and Commission Staff each have a different interpretation of the requirements under 807 KAR 5:022, Section 14(b) 1 and 807 KAR 5:027, Section 3(2) and based upon the advice given Saddlebrook by D. Gilbert Corrosion Services, by letter dated July 17, 1997, that a leak survey was not needed until 1999, there is no violation of 807 KAR 5:022, Section 14(13)(b)1.

Therefore, based upon negotiations with Commission Staff it is agreed that:

1. There are no further facts to be submitted to the Commission and that Saddlebrook has waived its right to a public hearing.

2. Saddlebrook agrees to the imposition of a civil penalty of \$1,000 for the violation of:

a. 49 CFR 192.465 and 807 KAR 5:022, Section 10(9)(a) no required corrosion inspection and;

b. 49 CFR 192.747 and 807 KAR 5:022, Section 14(25) no required annual valve inspection.

3. Saddlebrook is to pay \$1,000 within 10 days after the approval of this settlement by the Commission by certified check payable to the Kentucky State Treasurer and mailed or delivered to the Office of the General Counsel,, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky.

4. This settlement agreement is subject to the approval of the Public Service Commission.

5. If the PSC fails to adopt this agreement in its entirety, Saddlebrook reserves the right to withdraw from it and to proceed to a hearing. In such event, none of the matters contained in this settlement shall be binding on any of the parties.

6. If the settlement is adopted in its entirety by the PSC, this settlement shall constitute a final adjudication of the show cause proceeding without the need for any additional hearing.

7. If the settlement agreement is accepted by the PSC, the parties agree not to request rehearing or to file an appeal of the order to the Franklin Circuit Court.

Saddlebrook Apartments

By: James R. Gog
Attorney for
New Plan Realty Trust, Inc,
d/b/a Saddlebrook
apartments

12/15/99
Date

James R. Gog
PSC, Staff Attorney

12-15-99
Date



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KENTUCKY 40602
www.psc.state.ky.us
(502) 564-3940
Fax (502) 564-3460

Ronald B. McCloud, Secretary
Public Protection and
Regulation Cabinet

Helen Helton
Executive Director
Public Service Commission

Paul E. Patton
Governor

November 19, 1999

James Park, Jr.
Brown, Todd & Heyburn
2700 Lexington Financial Center
250 West Main Street
Lexington, Kentucky 40507-1749

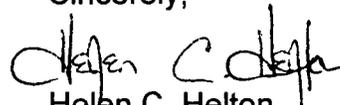
Re: Saddlebrook Apartments
Case No. 99-371

Mr. Parks:

Attached is a copy of the memorandum which is being filed into the record of the above-referenced case. Mr. Parks, as counsel of record, you may advise and distribute the memorandum as you deem necessary to other Saddlebrook Apartments' representatives.

If you have any comments that you would like to make regarding the contents of the informal conference memorandum, please do so within five days of receipt of this letter. Should you have any questions regarding same, please contact James R. Goff at (502) 564-3940, Extension 261.

Sincerely,


Helen C. Helton
Executive Director

/rst
Attachment
cc: File

INTRA-AGENCY MEMORANDUM

KENTUCKY PUBLIC SERVICE COMMISSION

TO: File
Case No 99-371

FROM: J. R. Goff
Staff Attorney 

DATE: November 19, 1999

RE: Saddlebrook Apartments
Informal Conference
November 8, 1999

On November 8, 1999 Saddlebrook Apartments ("Saddlebrook") met with Commission Staff for an informal conference. Present at that conference were:

For the PSC: J. R. Goff; David Kinman; Eddie B. Smith and Larry Amburgey.

For Saddlebrook Apartments: Hon. James Park, Jr. and Ray Kuykendall.

Staff explained the purpose of the conference and went over the violations as set out in the Commission Order of September 17, 1999 being:

1. Saddlebrook, in 1998, did not perform the required corrosion inspection. 49 CFR 192.465 and 807 KAR 5:022, Section 10(9)(a).
2. The required annual valve inspection was not conducted in 1998. 49 CFR 192.747 and 807 KAR 5:022, Section 14(25).
3. Saddlebrook did not patrol its gas system in 1998 as required. 49 CFR 192.721 and 807 KAR 5:022, Section 14(12).
4. A leakage survey was not conducted in 1998. 49 CFR 192.723 and 807 KAR 5:022, Section 14(13)(b) 1.

It was noted that Saddlebrook had filed a response to the allegations, which indicated Saddlebrook is currently subject to a contract of sale. Saddlebrook indicated that said sale was to be closed by the last of November 1999.

Saddlebrook admitted that it was in violation of number 1 and 2 of the regulations as set out above.

Saddlebrook, in its Response filed October 14, 1999, states it had patrol records for 1998 that were not on-site at the time of the inspection. Saddlebrook, at the informal conference, produced these records of patrols performed during 1998 and the Staff recommends that said records be filed and that there is no violation of 49 CFR 192.721 and 807 KAR 5:022, Section 14(12).

Likewise, Saddlebrook, in response to the alleged violation of 49 CFR 192.723 and 807 KAR 5:022, Section 14(13)(b) 1, produced a letter from D. Gilbert Corrosion Services ("Gilbert"), dated July 17, 1997, which states a leak survey is not needed for the year 1998. Due to Saddlebrook reliance upon this letter and the difference in interpretation of the regulation between Saddlebrook and Staff, Staff recommends that there is not a violation of 807 KAR 5:022, Section 14(13)(b) 1. Saddlebrook requests that a copy of the letter from Gilbert be filed in the record.

Saddlebrook and Staff agreed that they would enter into a settlement agreement whereby Saddlebrook admits violations as follows:

1. Saddlebrook, in 1998, did not perform the required corrosion inspection. 49 CFR 192.465 and 807 KAR 5:022, Section 10(9)(a).

2. The required annual valve inspection was not conducted in 1998. 49 CFR 192.747 and 807 KAR 5:022, Section 14(25).

Saddlebrook agreed to the assessment of a civil penalty of \$1000 of these two violations which will be payable as ordered by the Commission.

Commission Staff agreed to submit a settlement agreement to the Commission and request approval. If the Commission does not approve the agreement neither party will be bound by the terms thereof.

The meeting was adjourned.



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

October 21, 1999

Ezra E. Newby,
Maintenance Superintendent
Saddlebrook Apartments
215 Codell Drive
Lexington, KY. 40509

Honorable Dale D. Ahearn
Counsel for Saddlebrook Apartments
Brown, Todd & Heyburn PLLC
400 West Market Street
32nd Floor
Louisville, KY. 40202 3363

Honorable James Park,
Katherine Randall
Counsel for Saddlebrook Apartments
Brown, Todd & Heyburn PLLC
2700 Lexington Financial Center
250 West Main Street
Lexington, KY. 40507 1749

RE: Case No. 99-371

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,


Stephanie Bell
Secretary of the Commission

SB/sa
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SADDLEBROOK APARTMENTS)
_____) CASE NO. 99-371
ALLEGED VIOLATIONS OF)
ADMINISTRATIVE REGULATION)
807 KAR 5:022)

O R D E R

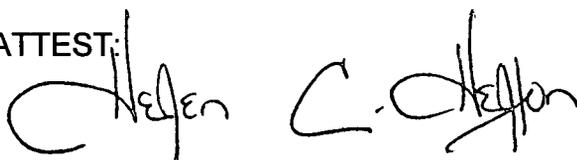
On October 18, 1999, Saddlebrook Apartments ("Saddlebrook") filed a request to reschedule an informal conference previously set by Order of the Commission for November 3, 1999. The Commission, being sufficiently advised, HEREBY ORDERS that:

1. The informal conference scheduled with Saddlebrook on November 3, 1999 is rescheduled for November 8, 1999 at 1:30 p.m., Eastern Standard Time, in Conference Room 2 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.
2. Saddlebrook shall bring all documents to support its position and shall be represented by counsel or a corporate officer authorized to enter into a settlement agreement.

Done at Frankfort, Kentucky, this 21st day of October, 1999.

By the Commission

ATTEST:



Executive Director

FAX

**BROWN, TODD
& HEYBURN**

Katherine Randall

October 15, 1999

RECEIVED
OCT 15 1999
PUBLIC SERVICE
COMMISSION

VIA FAX

2700 Lexington Financial Center
Lexington, KY 40507-1749
(606) 231-0000
Facsimile (606) 231-0011

James R. Goff, Esq.
Public Service Commission
P. O. Box 615
730 Schenkel Lane
Frankfort, KY 40602

Louisville Office
3200 Capital Holding Center
Louisville, KY 40202-3363
(502) 589-5400
Facsimile (502) 581-1087

Re: Saddlebrook Apartments, Case No. 99-371

Northern Kentucky Office
50 East RiverCenter Boulevard
Suite 1500
Covington, KY 41011
(606) 431-5550
Facsimile (606) 431-2191

Dear J. R.:

This will confirm our telephone conversation regarding our Motion for Rescheduling of Informal Conference filed on October 14, 1999, in the above-referenced proceeding. I would appreciate it if the informal conference could be set by the Public Service Commission on the mutually acceptable date we discussed, Monday, November 8, 1999, at 1:30 p.m. We would appreciate your help in seeing that the informal conference is set for this date and time. If there is a problem, please call me or Jim Park at (606) 231-0000. Thank you.

Indiana Office
400 Pearl Street
Suite 204, Elsbey East
New Albany, IN 47151-0558
(812) 948-2800
Facsimile (812) 948-7994

Sincerely yours,



Katherine Randall

In his report dated August 23, 1996, Mr. Kinman found (i) that there was no written operating and maintenance plan for Saddlebrook Apartments, (ii) that there was no written emergency plan, and (iii) that there was no written damage prevention plan. No other deficiencies were noted. Mr. Kinman also recommended that the training programs offered by the Kentucky Gas Association be utilized.

4. In response to Mr. Kinman's recommendations, a comprehensive Gas System Operation and Maintenance Manual, which included a damage prevention plan, and a Gas System Emergency Procedures Manual were developed by New Plan's Ray W. Kuykendall who also successfully completed a training program sponsored by the Kentucky Gas Association. Both manuals were kept onsite at Saddlebrook Apartments, together with blank gas leak reports, blank gas system patrol reports, and a copy of Guidance Manual for Operators of Small Gas Systems, published by the United States Department of Transportation.

5. On July 17, 1997, D. Gilbert Corrosion Services performed a cathodic protection survey and critical valve inspection at Saddlebrook Apartments. In his report, Mr. Gilbert stated that a "leak survey" was a three-year examination which would not need to be repeated until 1999.

6. Onsite personnel attempted to contact Mr. Gilbert for the purpose of performing the cathodic protection survey and critical valve inspection in 1998. The efforts to reach Mr. Gilbert were not successful as apparently he had gone out of business. There was no follow up, and the survey and inspection were not performed in 1998. The former maintenance supervisor at Saddlebrook Apartments states that he performed the required gas system patrols during 1998, and this former employee has furnished New Plan with what appear to be a hand-written memorandum of the required gas system patrols. However, those patrol reports were not

maintained onsite at Saddlebrook Apartments. There was a complete turnover of onsite maintenance and managerial personnel at Saddlebrook Apartments at the beginning of 1999. The new personnel failed to familiarize themselves with the manual developed by New Plan for the maintenance and operation of the natural gas facilities in accordance with applicable regulations, and the failure to perform the 1998 survey and inspection was not discovered.

7. On April 8, 1999, Mr. Kinman made a comprehensive inspection of the natural gas facilities at Saddlebrook Apartments on behalf of the Commission. As a result of that inspection, New Plan management personnel in Louisville became aware of the fact that the survey and inspection had not been performed in 1998.

8. On April 27, 1999, Moore Pipeline Corrosion Service, Inc. performed a cathodic protection survey and a critical valve inspection at Saddlebrook Apartments. All deficiencies found were immediately repaired. On September 28, 1999, Moore Pipeline Corrosion Service performed the 1999 gas leakage survey at Saddlebrook Apartments, and all deficiencies were immediately repaired.

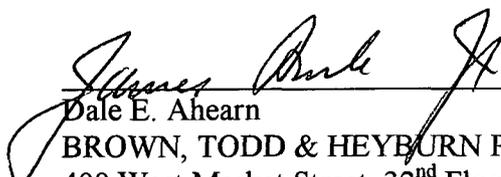
9. Saddlebrook Apartments are currently subject to a contract of sale. The sale is expected to close in the immediate future. New Plan personnel have reviewed New Plan's gas system operation and maintenance manual and its gas system emergency plan manual with the purchaser's representatives so that the purchaser will be familiar with applicable safety regulations governing the natural gas facilities at Saddlebrook Apartments. In addition, the purchaser's representatives have been notified of the training programs available sponsored by the Kentucky Gas Association.

10. Any violations of the Commission's regulations by New Plan were inadvertent, not willful, and any such violations were contrary to New Plan's policy of compliance with all

applicable safety regulations. The failure of its onsite personnel to familiarize themselves with, and to adhere to, New Plan's manuals governing inspection and testing of the natural gas facilities was contrary to New Plan's policy of compliance. Saddlebrook Apartments are currently in compliance with the Commission's regulations and there is every reason to believe that the new owner will maintain such compliance.

WHEREFORE, New Plan respectfully requests the Commission to accept this response and to dismiss this proceeding without penalty against New Plan.

Respectfully submitted,

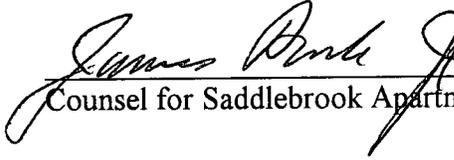

Dale E. Ahearn
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400 West Market Street, 32nd Floor
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(502) 589-5400 - telephone
(502) 581-1087 - fax

James Park, Jr.
Katherine Randall
BROWN, TODD & HEYBURN PLLC
2700 Lexington Financial Center
250 West Main Street
Lexington, KY 40507-1749
(606) 231-0000 - telephone
(606) 231-0011 - fax

COUNSEL FOR SADDLEBROOK APARTMENTS

CERTIFICATE OF SERVICE

I hereby certify that the original and ten (10) copies of the foregoing Response were hand-delivered to the Public Service Commission on this the 14th day of October, 1999.


Counsel for Saddlebrook Apartments

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COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

PUBLIC SERVICE
COMMISSION

OCT 14 1999

RECEIVED

In the Matter of:

SADDLEBROOK APARTMENTS)

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ALLEGED VIOLATION OF
ADMINISTRATIVE REGULATION
807 KAR 5:022

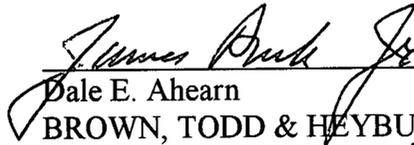
CASE NO. 99-371

**MOTION FOR RESCHEDULING OF
INFORMAL CONFERENCE**

The Respondent, New Plan Excel Realty Trust, Inc. d/b/a Saddlebrook Apartments, moves the Commission for an order rescheduling the informal conference in this matter. In support of this motion, the Respondent states:

The informal conference is presently set for November 3, 1999. Counsel for the Respondent, James Park, Jr. and Katherine Randall, are scheduled to be in Arizona from November 1-5, 1999, attending at a client's request the Generation and Transmission Cooperative Legal Seminar sponsored by the National Rural Electric Cooperative Association. Therefore, the Respondent respectfully requests that the informal conference be rescheduled for sometime during the week of November 8, 1999, excepting only Tuesday, November 9, 1999.

Respectfully submitted,



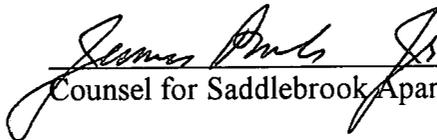
Dale E. Ahearn
BROWN, TODD & HEYBURN PLLC
400 West Market Street, 32nd Floor
Louisville, KY 40202-3363
(502) 589-5400 - telephone
(502) 581-1087 - fax

James Park, Jr.
Katherine Randall
BROWN, TODD & HEYBURN PLLC
2700 Lexington Financial Center
250 West Main Street
Lexington, KY 40507-1749
(606) 231-0000 - telephone
(606) 231-0011 - fax

COUNSEL FOR SADDLEBROOK APARTMENTS

CERTIFICATE OF SERVICE

I hereby certify that the original and ten (10) copies of the foregoing Motion for Rescheduling of Informal Conference were hand-delivered to the Public Service Commission on this the 14th day of October, 1999.


Counsel for Saddlebrook Apartments



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

October 13, 1999

Ezra E. Newby,
Maintenance Superintendent
Saddlebrook Apartments
215 Codell Drive
Lexington, KY. 40509

Honorable Dale D. Ahearn
Counsel for Saddlebrook Apartments
Brown, Todd & Heyburn PLLC
400 West Market Street
32nd Floor
Louisville, KY. 40202 3363

Honorable James Park,
Katherine Randall
Counsel for Saddlebrook Apartments
Brown, Todd & Heyburn PLLC
2700 Lexington Financial Center
250 West Main Street
Lexington, KY. 40507 1749

RE: Case No. 99-371

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,

Stephanie J. Bell
Stephanie Bell
Secretary of the Commission

SB/sa
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SADDLEBROOK APARTMENTS)

ALLEGED VIOLATIONS OF)
ADMINISTRATIVE REGULATION)
807 KAR 5:022)

CASE NO. 99-371

O R D E R

On September 17, 1999, the Commission issued an Order directing Saddlebrook Apartments ("Saddlebrook") to show cause why it was not in violation of certain Commission regulations. Saddlebrook's response was due to be filed on or before October 7, 1999. Saddlebrook filed a request for an extension of time to October 14, 1999 in which to file a response. Saddlebrook has also requested an informal conference with Commission Staff.

The Commission, being sufficiently advised, HEREBY ORDERS that:

1. Saddlebrook is granted an extension of time to file its response; the response shall be filed on or before October 14, 1999.
2. The formal hearing set for November 5, 1999 is continued, pending further Orders of the Commission.
3. An informal conference shall be held with Commission Staff on November 3, 1999 at 9:30 a.m., Eastern Standard Time, in Conference Room 2 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky.

4. Saddlebrook shall bring all documents to support its position and shall be represented by counsel or a corporate officer authorized to enter into a settlement agreement.

Done at Frankfort, Kentucky, this 13th day of October, 1999.

By the Commission

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

OCT 06 1999

PUBLIC SERVICE
COMMISSION

In the Matter of:

SADDLEBROOK APARTMENTS)

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ALLEGED VIOLATION OF)
ADMINISTRATIVE REGULATION)
807 KAR 5:022)

CASE NO. 99-371

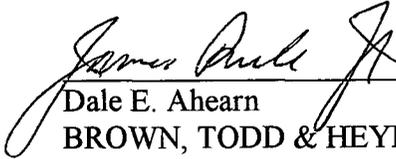
MOTION FOR EXTENSION OF TIME AND
FOR INFORMAL CONFERENCE

On September 17, 1999, the Public Service Commission initiated Case No. 99-371. The Commission found prima facie evidence that Saddlebrook Apartments ("Saddlebrook") failed to comply with Administrative Regulation 807 KAR 5:022. The Commission ordered Saddlebrook to submit a written response to the allegations in the Comprehensive Inspection Report and to file any motion requesting an informal conference within twenty (20) days of the date of the Order, and to appear before the Commission on November 5, 1999, for the purpose of presenting evidence.

The undersigned counsel was retained this week to assist Saddlebrook. In order to review the Commission's Order and prepare a useful response, and not for the purposes of delay, Saddlebrook respectfully requests an extension of time of seven (7) days respecting the filing of Saddlebrook's response to the allegations. Thus, Saddlebrook's written response to the allegations would be due on October 14, 1999. Saddlebrook also requests that an informal conference be scheduled in October on or after October 21, 1999. Finally, as counsel will be

unavailable on November 5, 1999, Saddlebrook requests that the hearing presently scheduled for November 5, 1999, be rescheduled to a date on or after November 12, 1999.

Respectfully submitted,



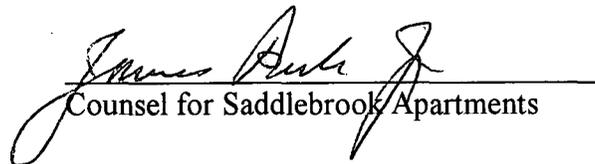
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COUNSEL FOR SADDLEBROOK APARTMENTS

CERTIFICATE OF SERVICE

I hereby certify that the original and ten (10) copies of the foregoing Motion for Extension of Time were hand-delivered to the Public Service Commission on this the 6th day of October, 1999.



Counsel for Saddlebrook Apartments



COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION
730 SCHENKEL LANE
POST OFFICE BOX 615
FRANKFORT, KY. 40602
(502) 564-3940

September 17, 1999

Ezra E. Newby,
Maintenance Superintendent
Saddlebrook Apartments
215 Codell Drive
Lexington, KY. 40509

RE: Case No. 99-371

We enclose one attested copy of the Commission's Order in
the above case.

Sincerely,

Stephanie Bell
Stephanie Bell
Secretary of the Commission

SB/sa
Enclosure

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

SADDLEBROOK APARTMENTS)
)
 _____) CASE NO. 99-371
)
 ALLEGED VIOLATIONS OF)
 ADMINISTRATIVE REGULATION)
 807 KAR 5:022)

O R D E R

Saddlebrook Apartments ("Saddlebrook") is a master meter system operator that receives natural gas from the Columbia Gas of Kentucky system. Saddlebrook then redistributes its gas to 455 apartments through a network of steel and plastic pipelines.

Saddlebrook, as a master meter operator, is subject to the safety jurisdiction of the Commission, pursuant to KRS 278.040 and KRS 278.495. Saddlebrook is also subject to Commission jurisdiction under the authority of and in compliance with federal pipeline safety laws, 49 U.S.C. § 60101, *et seq.*, and the regulations of 49 CFR 189-199.

Pursuant to these statutes and 49 CFR 189-199, the Commission promulgated Administrative Regulation 807 KAR 5:022. Commission Staff has submitted to the Commission a Comprehensive Inspection Report, dated August 5, 1999, in which Commission Staff alleges the following violations:

1. The required corrosion inspection was not performed in 1998.
49 CFR 192.465 and 807 KAR 5:022, Section 10(9)(a).

2. The required annual valve inspection was not conducted in 1998. 49 CFR 192.747 and 807 KAR 5:022, Section 14(25).

3. The required gas system patrol was not conducted in 1998. 49 CFR 192.721 and 807 KAR 5:022, Section 14(12).

4. The required leakage survey was not conducted in 1998. 49 CFR 192.723 and 807 KAR 5:022, Section 14(13)(b)1.

Based on its review of the Comprehensive Inspection Report, and being otherwise sufficiently advised, the Commission finds *prima facie* evidence that Saddlebrook has failed to comply with Administrative Regulation 807 KAR 5:022.

The Commission, on its own motion, HEREBY ORDERS that:

1. Saddlebrook shall appear before the Commission on November 5, 1999, at 9:30 a.m., Eastern Standard Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, for the purpose of presenting evidence concerning the alleged violations of Administrative Regulation 807 KAR 5:022, and of showing cause why it should not be subject to the penalties prescribed in KRS 278.990(1) and KRS 278.992(1) for these alleged violations.

2. The Comprehensive Inspection Report, dated August 5, 1999, a copy of which is appended hereto, is made part of the record of this proceeding.

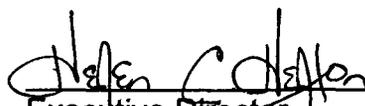
3. Within 20 days of the date of this Order, Saddlebrook shall submit to the Commission a written response to the allegations contained in the Comprehensive Inspection Report.

4. Any motion requesting an informal conference with Commission Staff to consider any matter that would aid in the handling or disposition of this proceeding shall be filed with the Commission no later than 20 days from the date of this Order.

Done at Frankfort, Kentucky, this 17th day of September, 1999.

By the Commission

ATTEST:


Executive Director

APPENDIX

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 99-371 DATED SEPTEMBER 17, 1999

COMMONWEALTH OF KENTUCKY
PUBLIC SERVICE COMMISSION

COMPREHENSIVE INSPECTION REPORT

SADDLEBROOK APARTMENTS
Lexington, Kentucky

August 5, 1999

BRIEF

A comprehensive inspection of the natural gas system of the Saddlebrook apartment complex was conducted on April 8, 1999. This inspection was conducted in accordance with the Public Service Commission's ("PSC") policy of inspecting all jurisdictional operators. Natural gas operators are jurisdictional to the PSC under KRS 278.040, 278.495 and also through a 5(a) Agreement with the United States Department of Transportation, Office of Pipeline Safety, for the enforcement of the Natural Gas Pipeline Safety Act of 1968.

INSPECTION

Saddlebrook is a master meter natural gas operator that receives its gas through the Columbia Gas of Kentucky system and then redistributes its gas to 455 apartments through a network of steel and plastic pipelines. Gas is used in the complex for a variety of purposes including heat, hot water and cooking.

A master meter system is defined in 49 CFR Part 191.3 as a pipeline system for delivering gas within, but not limited to, a definable area such as a mobile home park, housing or apartment complexes where the operator purchases gas from an outside source for resale through a gas distribution system. The gas distribution pipeline

system supplies the ultimate consumer who either purchases the gas directly or through other means, such as rent.

The intent of this inspection and subsequent inspections of other master meter operators is to afford the residents of these master meter complexes the same standards of safety that are required by other operators.

During the inspection the Operating and Maintenance and Emergency Plans, leakage survey, corrosion survey, key valve and records were reviewed along with other pertinent records.

Deficiencies noted during this inspection will be further discussed in the findings section of this report.

FINDINGS

The following deficiencies were noted during the inspection:

1. Saddlebrook in 1998 did not perform the required corrosion inspection. 49 CFR 192.465 and 807 KAR 5:022, Section 10(9)(a).
2. The required annual valve inspection was not conducted in 1998. 49 CFR 192.747 and 807 KAR 5:022, Section 14(25).
3. Saddlebrook did not patrol its gas system in 1998 as required. 49 CFR 192.721 and 807 KAR 5:022, Section 14(12).
4. A leakage survey was not conducted in 1998. 49 CFR 192.723 and 807 KAR 5:022, Section 14(13)(b)1.

At the time of the inspection, local management and maintenance personnel were unaware of the fact that Saddlebrook was a master meter natural gas operator. They were unprepared either through training, knowledge or experience to operate a natural gas system in a safe and prudent manner. The upper management of Saddlebrook has failed to pass this information to its new onsite maintenance and management personnel.

RECOMMENDATIONS

It is recommended that Saddlebrook:

1. Immediately conduct a cathodic protection survey and repair any substandard readings.
2. Immediately conduct valve inspections to be assured that they will operate in the event of an emergency.
3. Patrolling of this system must begin immediately and any abnormalities noted must be corrected as soon as possible.
4. A leakage survey must be conducted immediately and all leakage found must be repaired in a timely manner.

In order to operate a natural gas system safely, maintenance personnel must have training on the safe and proper ways to respond to leakage calls and also how to handle gas in an emergency. This training is available through the Kentucky Gas Association.

Report – Saddlebrook Apartments
August 5, 1999
Page 4

Further information on the Kentucky Gas Association training seminars may be obtained by contacting Dr. Paul Lyons, Kentucky Gas Association, 92 Chestnut Street, Murray, Kentucky 42071, (502) 753-2151 or (800) 455-9427, email: itskga@ltd.net, web address: <http://www.kygas.org>.

It is further recommended that a copy of this report be sent to Saddlebrook directing it to respond by September 6, 1999 with a plan of correction to the cited deficiencies for Commission approval.

It is further recommended that the Commission initiate a hearing to allow Saddlebrook to show cause why it should not be penalized for failure to comply with the pipeline safety regulations.

Respectfully submitted,



David B. Kinman
Gas Utility Investigator
Gas Branch

LLA
EB5

DBK:dcp
9905700